

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

BOARD OF TRUSTEES OF THE  
NORTHERN CALIFORNIA SHEET METAL  
WORKERS HEALTH CARE PLAN, et al.,

Plaintiffs,

vs.

LIBERTY DUCT, LLC,

Defendant.

Case No.: C 13-1288 KAW  
ORDER

In this ERISA case, Plaintiffs allege that Defendant Liberty Duct, LLC, a Nevada limited liability company, breached the terms of a collective bargaining agreement and trust agreements. *See* Comp'l at 1-2. The complaint does not explain what type of business Defendant is. No attorney has appeared on behalf of Defendant.

Plaintiffs, through counsel, and Paul Wulfenstein, the ostensible corporate owner of Defendant, have filed a document consenting to the undersigned's jurisdiction. Plaintiffs' counsel and Wulfenstein have also signed and filed a stipulation for judgment, and have filed a proposed judgment.

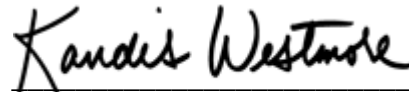
Because Defendant is an LLC, it cannot be represented by a non-attorney. *See* 28 U.S.C. § 1654; Civil Local Rule 3-9(b) ("A corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court."); *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004) ("It is a longstanding rule that corporations

1 and other unincorporated associations must appear in court through an attorney."). Accordingly, the  
2 consent filed by Wulfenstein does not operate as a consent by Defendant, and the stipulation entered  
3 into by Wulfenstein does not operate as a stipulation by Defendant.

4 Accordingly, within 30 days of the date of this order, Defendant shall retain counsel in this  
5 matter, and re-file the consent and stipulation. Failure to comply with this order may result in the  
6 entry of a default judgment against Defendant. *See Employee Painters' Trust v. Ethan Enterprises,*  
7 *Inc.*, 480 F.3d 993, 998 (9th Cir. 2007) (default may be a permissible sanction for failure to comply  
8 with local rules requiring representation by counsel).

9 It is so ORDERED.

10  
11 DATE: April 4, 2013



KANDIS A. WESTMORE  
UNITED STATES MAGISTRATE JUDGE